

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FUNCTION MEDIA, L.L.C.

Plaintiff,

vs.

GOOGLE INC. AND YAHOO!, INC.

Defendants.

§
§
§
§
§
§
§
§

Civil Action No. 2007-CV-279

JURY TRIAL DEMANDED

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTIONS IN LIMINE

Before the Court is Plaintiff Function Media's omnibus Motions in *Limine*, see Dkt No. 188, filed on October 2, 2009. After reviewing the Motion, and any response and replies thereto, the Court finds the following:

1. Motion in *Limine* #1 - Reference to Motions In *Limine*.

_____ Granted

_____ Denied

2. Motion in *Limine* #2 - Reference to Motions or Prior Rulings By This Court.

_____ Granted

_____ Denied

3. Motion in *Limine* #3 - Matters Related to the *Markman Order*.

_____ Granted

_____ Denied

4. Motion in *Limine* #4 - Requests for Stipulation and Documents.

_____ Granted

_____ Denied

5. **Motion in Limine #5 - Reference to Claims of Privilege.**

_____ Granted _____ Denied

6. **Motion in Limine #6 - Reference to Privileged Subject Matter.**

_____ Granted _____ Denied

7. **Motion in Limine #7 - Any Reference to Objections During the Playing of Deposition Testimony.**

_____ Granted _____ Denied

8. **Motion in Limine #8 - The Nature of Any Fact Witness's Preparation for Trial or for Deposition Testimony with That Witness's Counsel.**

_____ Granted _____ Denied

9. **Motion in Limine #9 - The Nature of Any Expert Witness's Preparation for Trial with That Party's Counsel.**

_____ Granted _____ Denied

10. **Motion in Limine #10 - Reference to Fee Agreements.**

_____ Granted _____ Denied

11. **Motion in Limine #11 - References to law Firms or Layers Representing Any Party.**

_____ Granted _____ Denied

12. Motion in Limine #12 - Lawyers as Witnesses.

_____ Granted

_____ Denied

13. Motion in Limine #13 - Fact Witnesses as Experts.

_____ Granted

_____ Denied

14. Motion in Limine #14 - References to Jury Consultants and/or Shadow Jurors.

_____ Granted

_____ Denied

15. Motion in Limine #15 - Surprise or Untimely Expert Opinions.

_____ Granted

_____ Denied

16. Motion in Limine #16 - Reference to Whether an Expert Has Been Excluded in a Prior Case.

_____ Granted

_____ Denied

17. Motion in Limine #17 - References or Expert Opinions Regarding Prior Art Not Previously Selected or Prior Art Not Timely Identified/Charted.

_____ Granted

_____ Denied

18. Motion in Limine #18 - Reference to an Incorrect or Altered Obviousness Standard

_____ Granted

_____ Denied

19. Motion in Limine #19 - Claims or Defenses Not Plead.

_____ Granted _____ Denied

20. Motion in Limine #20 - Products and Third Parties Not Accused of Infringement.

_____ Granted _____ Denied

21. Motion in Limine #21 - Any Reference to Any Prior Claims, Causes of Action, or Forms of Relief Asserted by FM In This Lawsuit That Have Been Dismissed or Abandoned.

_____ Granted _____ Denied

22. Motion in Limine #22 - References to the Eastern District of Texas as Venue.

_____ Granted _____ Denied

23. Motion in Limine #23 - Reference to Race/Religion/Sexual Orientation.

_____ Granted _____ Denied

24. Motion in Limine #24 - Foul or Offensive Language.

_____ Granted _____ Denied

25. Motion in Limine #25 - Criminal Indictments/Convictions or Civil Complaints Alleging Fraudulent or Criminal Conduct Against Any Party or Witness.

_____ Granted _____ Denied

26. Motion in Limine #26 - Criticisms of the Patent Office or Its Employees.

_____ Granted

_____ Denied

27. Motion in Limine #27 - Litigation Settlement Agreement.

_____ Granted

_____ Denied

28. Motion in Limine #28 - Litigation Settlement Negotiations.

_____ Granted

_____ Denied

29. Motion in Limine #29 - Infringer's Patent as a Defense to Infringement.

_____ Granted

_____ Denied

30. Motion in Limine #30 - Advice of Counsel Defense.

_____ Granted

_____ Denied

31. Motion in Limine #31 - Corporate Representative Testimony is Binding.

_____ Granted

_____ Denied

32. Motion in Limine #32 - Any References to the State of the Economy, Layoffs or the Impact a Damage Award Would Have on Google's Operations.

_____ Granted

_____ Denied

33. Motion in Limine #33 - Any Reference to Reexamination Proceedings.

_____ Granted

_____ Denied

34. Motion in Limine #34 - Any Reference to Legal Nature of Marital Relationship Between Michael Dean and Lucinda Stone

_____ Granted

_____ Denied

35. Motion in Limine #35 - Any Reference to "Patent Trolls".

_____ Granted

_____ Denied

36. Motion in Limine 36 - Reference to Equitable Issues.

_____ Granted

_____ Denied

37. Motion in Limine #37 - Relative Importance of Claim Elements.

_____ Granted

_____ Denied

38. Motion in Limine #38 - Notice Before Filing Suit.

_____ Granted

_____ Denied

39. Motion in Limine #39 - FM's Business Affairs.

_____ Granted

_____ Denied

40. Motion in Limine #40 - Financial Position of Inventors.

_____ Granted

_____ Denied

41. Motion in *Limine* #41 - Evidence, Testimony or Argument Concerning Alleged Mismanagement or Profitability of FM or any Related Entity

_____ Granted

_____ Denied

42. Motion in *Limine* #42 - Evidence, Testimony or Argument by Defendant Concerning Virtual Cities, O.N.S. or First Travelers' Choices' Management, Business Affairs or Profitability.

_____ Granted

_____ Denied

43. Motion in *Limine* #43 - References to "One Night Stand".

_____ Granted

_____ Denied

44. Motion in *Limine* #44 - Inventors Did Not Introduce a Commercial Successful System.

_____ Granted

_____ Denied

45. Motion in *Limine* #45 - Computer Skills of the Inventors.

_____ Granted

_____ Denied

46. Motion in *Limine* #46 - AdForce, Aaddzz, AdKnowledge, NetGravity, DoubleClick, AdStar, and AdManagerPro References as Prior Art.

_____ Granted

_____ Denied

47. Motion in *Limine* #47 - Evidence, Testimony, Argument That the Inventors Drafted Patent Claims Based on Google's AdSense Product.

_____ Granted

_____ Denied

48. Motion in *Limine* #48 - Documents (and Testimony Related to Those Documents) or Witnesses Not Timely Produced or Disclosed in Discovery.

_____ Granted

_____ Denied